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GlaxoSmithKline

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Date May 6, 2005 Pages including cover 5

Subject Request for Continued Examination (RCE)

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Re: Application of Michael Thomas RIEBE et al.  
U.S. Serial No.: 10/694,163; Filed: October 27, 2003  
Date of Mailing "Notice of Allowance and Fees Due": February 9, 2005  
Confirmation No.: 3051  
Title: *Medicaments*  
Attorney Docket No. GR2351US5

Attached:

1. RCE transmittal with Certificate of Transmission by Facsimile (37 CFR 1.8) (In duplicate)
2. Submission in support of a Request for Continued Examination (2 pages)

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Doc Code:

PTO/SB/30 (09-04)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

|                        |                      |
|------------------------|----------------------|
| Application Number     | 10/694,163           |
| Filing Date            | October 27, 2003     |
| First Named Inventor   | Michael Thomas RIEBE |
| Art Unit               | 1616                 |
| Examiner Name          | Haghghatian, Mina    |
| Attorney Docket Number | GR2351US5            |

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

## 1. Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☐ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☒ Other Submission in support of RCE under 37 CFR 1.114

## 2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)

b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to

Deposit Account No. 07-1392

I have enclosed a duplicate copy of this sheet.

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other \_\_\_\_\_

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature

*Robert J. Smith*

Date 5-6-05

May 6, 2005

Name (Print / Type)

Robert J. Smith

Registration No.

40,820

## CERTIFICATE OF MAILING OR TRANSMISSION

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Signature

*Marjorie J. Pfeiffer*

Name (Print / Type)

Marjorie J. Pfeiffer

Date

May 6, 2005

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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| Art Unit               | 1616                 |
| Examiner Name          | Haghighatian, Mina   |
| Attorney Docket Number | GR2351US5            |

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- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_

## b. ☒ Enclosed

- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Submission in support of RCE under 37 CFR 1.114

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- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 07-1392. I have enclosed a duplicate copy of this sheet.
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

|                   |                        |                    |             |
|-------------------|------------------------|--------------------|-------------|
| Signature         | <i>Robert J. Smith</i> | Date <u>5-6-05</u> | May 6, 2005 |
| Name (Print/Type) | Robert J. Smith        | Registration No.   | 40,820      |

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|                   |                             |      |             |
|-------------------|-----------------------------|------|-------------|
| Signature         | <i>Marjorie J. Pfeiffer</i> | Date | May 6, 2005 |
| Name (Print/Type) | Marjorie J. Pfeiffer        |      |             |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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In re Application of Riebe, et al.

Confirmation No. 3051

U.S. Serial No.: 10/694,163

Group Art Unit: 1616

U.S. Filing Date: October 27, 2003

Examiner: M. Haghighatlian

Title: *Medicaments*

Mall Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUBMISSION IN SUPPORT OF A REQUEST FOR CONTINUED  
EXAMINATION PURSUANT TO 37 C.F.R. § 1.114 AND  
COMMENTS ON REASONS FOR ALLOWANCE PURSUANT TO  
37 C.F.R. § 1.104**

Sir:

Pursuant to the above, this serves as a submission filed concurrently with a Request for Continued Examination under 37 C.F.R. § 1.114 and Comments on the Reasons for Allowance under 37 C.F.R. § 1.104.

Applicants thank the Examiner for taking the time to prepare Reasons for Allowance in this application. It is respectfully submitted that the Reasons for Allowance should be amended as follows so that the Reasons for Allowance will more closely conform to the language of the allowed claims:

"[T]he primary reason for allowance is that prior art does not teach annealed particles of salbutamol. The process of annealing, which includes heating and cooling particles, allows for the particles to withstand various temperature and humidity ranges a metered dose inhaler comprising a container adapted to contain a pharmaceutical aerosol formulation; in the container the pharmaceutical aerosol formulation comprising annealed particulate salbutamol sulphate having a water content of less than about 0.4% by weight and propellant comprising 1, 1, 1, 2-tetrafluoroethane; and metering means for metering the aerosol formulation."


U.S. Serial No. 10/694,163  
Filed: October 27, 2003  
Page 2 of 2

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In view of the above, Applicants respectfully request continued examination of the above-referenced application and entry of the above comments.

Respectfully submitted,

Date: May 6, 2005



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Attorney for Applicants

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